



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

376

CR-1430-2024

Date of decision : 16.03.2026

Umed Singh through his LRs

..... Appellant

versus

Raj Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sushil Jain, Advocate
for the appellant.

Mr. S.K. Aggarwal, Advocate and
Mr. Nissim Aggarwal, Advocate
for the respondent.

PANKAJ JAIN, J. (Oral)

1. Present revision petition is directed against order dated 30.01.2024 passed by Executing Court whereby objections preferred by the LRs of JD have been dismissed and warrant of attachment has been issued qua the suit property.

2. Respondent-decree holder filed suit seeking decree of permanent injunction against Zile Singh, Tare and Umed Singh, all sons of Jogi Ram qua property in dispute in shape of a plot/gher situated within lal dora. Civil suit bearing No.67 of 1992 was decreed vide judgment and decree dated 22.08.2000. Decree sheet reads as under:-

“Claim for: a decree for permanent injunction restraining the defendants from interfering in the possession of the plaintiff over plot/gher situated in lal dora in village Sewali shown by letters A.B.C.D. bounded as follows:-

East: Street,

West: House of Tare

North: Plot of Jagbir Singh



South: Street,

50 feet from east to west, 15 feet from North to south measuring 83 sq. yards, be passed in favour of the plaintiff and against the defendants with costs.

Plaint presented on 1.12.1992.

This suit is coming for final disposal before me (Shri Ajay Tewatia, Civil Judge (Jr. Divn.), Sonapat in the presence of Shri M.L. Verma counsel for the plaintiff and Shri Sube Singh, Shri S.L. Tyagi counsel for the defendants.

It is ordered that the suit of the plaintiff is hereby decreed with costs and defendants are hereby restrained from interfering in the possession of the plaintiff over the plot in dispute.

Costs of the suit.”

3. Dissatisfied defendants preferred appeal which was dismissed vide judgment and decree dated 02.08.2001, upholding the aforesaid decree passed by the Trial Court. The present execution application under Order XXI Rule 32 CPC was filed by the respondent-decree holder alleging disobedience and violation of the decree at the hands of petitioner, whose predecessor-in-interest Umed Singh was one of the JDs. The decree holder claimed that despite there being a decree of positive injunction against the JDs, the present petitioner who is LR of one of the JDs at the back of the decree holder raised construction over the plot in dispute without having any right, title or interest and in violation of the decree. The execution application was filed on 21.10.2021. The petitioner preferred objections, wherein he claimed that the construction raised by the objector was well within the knowledge of the decree holder. At no point of time, he raised any objection. Thus, he having acquiesced to the same, the present application under Order XXI Rule 32 CPC alleging violation of the decree cannot be maintained.



4. Vide impugned order, Executing Court has dismissed the objections and issued warrant of attachment qua the property of JD and has also issued warrants of civil imprisonment.

5. Learned counsel appearing for the petitioner assails the order passed by Executing Court. He has drawn attention of this Court to the pleadings raised in the execution application to submit that the decree holder himself admits that the construction was raised in the year 2014. His silence and acquiescence to the construction raised is written large, as the present application was moved only in October 2021. He submits that as per settled proposition of law, fruits of decree can be given away by acquiescence and thus the present application is not maintainable. He further submits that even if the dismissal of objections is upheld, warrant of civil imprisonment should not have been issued without there being any prior notice qua the same against the petitioner in compliance of Order XXI Rule 37 CPC.

6. *Per contra*, Mr. Aggarwal counsel for the respondent submits that there is no limitation provided for filing application under Order XXI Rule 32 CPC seeking execution of decree for permanent injunction. Proviso appended to Article 136 of the Limitation Act, 1963 clarifies that enforcement of decrees cannot be held to be time barred. In order to hammer forth his contention, he relies upon ***Bhudev Mallick @ Bhudeb Mallick and anr. vs. Ranajit Ghoshal and ors. 2025 INSC 175, Prabhakara Adiga vs. Gowri & Ors. 2017(4) SCC 97 and Idrish vs. Jaikam & Ors. 2009(4) PLR 32.***

7. I have heard counsel for the parties and have carefully gone through the records of the case.



8. There cannot be any quarrel with the proposition that application filed under Order XXI Rule 32 seeking enforcement of the decree of perpetual injunction cannot be dismissed being barred by time in the light of Article 136 of the Act of 1963. The provision itself makes it abundantly clear that a cause of action arises when the JD had an opportunity to obey the decree, but wilfully opts not to obey the same.
9. In the present case, the fact that the decree dated 22.08.2000 has attained finality, is not in dispute. It is not in dispute that the present petitioner is successor-in-interest of one of the JDs, namely Umed Singh. Thus, the argument raised by Mr. Jain with respect to acquiescence of the decree holder in remaining silent at the time of raising of construction by the objector, cannot be accepted. Mr. Aggarwal, at this point points out that the decree holder in fact was residing out of the village on account of his employment and thus, rarely visited the village. It is for this reason the execution was not filed promptly.
10. Be that as it may, this Court finds no merits in the present revision petition and the same is ordered to be dismissed. However, it is made clear that any coercive measure shall abide by the rule of law.
11. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

16.03.2026

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No